

**Comments/Suggestions Received from Senate Bill 284 Workshop
Held on June 28, 2007**

Application Form/Process:

1. It should not be necessary for an attorney to file a video service application. The video application process appears very simple and straightforward whereby I see no reason why we could not make the application ourselves without an attorney. For years we've been making tariff filings and other filings through EFIS without an attorney.

Commission Staff response: According to 4 CSR 240-2.010(13) an application differs from a tariff filing in that an application is considered to be a pleading. Commission rule 4 CSR 240-2.080(1) requires every pleading to be signed by an attorney. This requirement is based on various court rulings. Consequently, the Missouri PSC's video service application process will maintain the requirement for an attorney to file a video service application.

2. Can you make the application forms available online in an Adobe pdf format that allows the applicant to type on the form and either save the doc or print it out for mailing or file purposes?

Commission Staff response: The application forms will be in both Word and pdf formats. The Word format will be "fillable" in that the user will be able to download the form and have the ability to fill-in text. The pdf format will not be fillable, but can be completed manually and scanned for electronic filing.

3. The video service application form should include the Federal Communications Commission Community Unit Identifier to assist in coordinating federal and state regulatory matters.

Commission Staff response: We fail to see the need to require an applicant to identify the FCC's Community Unit Identifier and consequently do not plan to make it a requirement. Instead applicants should simply provide the name of the political subdivision which should be more recognizable and useful to parties. Identifying the name of the political subdivision also is consistent with a plain reading of SB 284.

4. The video service application form should require applicants to note whether the city/county/town will be served by the applicant in its entirety or partially. An option might be to require attachment of service area information or some other mechanisms to allow the Commission to track changes in service area over time.

Commission Staff response: If a video service application requests video service authorization for a political subdivision (i.e., a county) that can be divided into additional political subdivisions (i.e., a city, town) then the Missouri PSC will assume the video service authorization request is only for the unincorporated portions of the larger

political subdivision. Video service applicants are encouraged to make their video service applications as specific as possible but applicants will not be required to specify whether they intend to serve an area in its entirety or partially.

5. A video service provider should be required to file video service rates offered to customers.

Commission Staff response: No. Section 67.2679.4 specifies the Missouri PSC lacks any authority over a video service provider's rates. Absent such authority a requirement for a video service provider to file video service rates will be difficult to enforce.

6. The application form should require the applicant to provide specific contact information (name, title, mailing address, phone number and e-mail address) for resolving consumer disputes.

Commission Staff response: The application form requires certain contact information which the Missouri PSC intends to use when forwarding complaints. A video service applicant should provide alternative contact information if the applicant does not want consumer complaints forwarded to such individuals.

7. A video service provider's application should include a copy of the notice provided to affected political subdivisions. Section 67.2979.5 requires anyone seeking to commence providing video service shall file an application for video service with the PSC and also provide written notice to the affected political subdivision. If such notice is provided in a video service application it will help ensure this requirement has been met.

Commission Staff response: The application form contains a certificate of service indicating the applicant certifies the application was delivered by first class mail, electronic mail or hand delivered to each of the political subdivisions listed in the application. Based on this requirement, we fail to see the benefit of establishing additional requirements. Moreover, any additional requirements, if applied, create the presumption the Missouri PSC can reject the application if such requirements are not met.

8. The proposed Commission order granting video service authorization should be less broad in terms of the authority to construct a video service network along, across, or on public rights-of-way. The Commission's order should at least reference that such authority is issued in the context of the obligations and requirements of 67.2675 through 67.2714.

Commission Staff response: No. Staff's proposed wording for the Commission's order is consistent with 67.2679.8. In Staff's opinion, the proposed suggested language is unnecessary.

Should there be a fee for filing a video service application?

9. Not opposed to a fee as long as it is reasonable.

10. Chapter 3 of the Commission's rules (such as 4 CSR 240-3.130(3) and (5)) provide for a filing fee and specified costs for any hearing time. These filing fees seem to apply where the Commission performs functions regarding entities that are not regulated. It makes sense that the video service applications should be charged something. Any filing fee will need to be encompassed in a rulemaking.

Commission Staff response to Comments 9 and 10: There are plans to establish a fee; however Staff agrees a rulemaking will be necessary. Consequently, any filing fee(s) will not be applied until a rule becomes effective.

List Posted on PSC's Web-Site of Pending and Approved Video Service Applications:

11. The PSC's list of video service applications posted on the PSC web site should indicate if a pending application is considered to be a "complete" application in order to indicate the application has been accepted and the clock is ticking.

Commission Staff response: This suggestion adds an unnecessary degree of complexity for maintaining this list. We only plan to indicate the status of a video service application by categorizing it as either submitted or approved. Readers may assume the clock is ticking on any submitted application. If a submitted application is deemed deficient the application will be rejected and the list will simply continue to show the application as submitted.

12. Make this list as easy as possible to access.

Commission Staff response: The Commission's home page will have a link to the list. We will also provide instructions since the list can be sorted in various ways.

PSC's Report to General Assembly:

13. Hold public hearings in non-franchised areas, not just areas that have received video service authorization from the PSC.

Commission Staff response: SB 284 does not require the Missouri Commission to have public hearings to prepare this report. Therefore, at this time it is uncertain if any public hearings will be held. If public hearings are held it is anticipated such hearings will be held in areas where the Commission granted video service authorization and people residing in non-franchised areas are welcome to provide feedback at those hearings.

14. This report should include any consumer complaints that are received by the PSC.

Commission Staff response: The Missouri PSC lacks any authority over complaints; however, the number and type of consumer complaints received by the PSC may be included in the report. If included, we anticipate the report will not imply the Missouri PSC has the authority to address such complaints and will indicate such tracking may not be accurate or all-inclusive.

Ceasing video service:

15. Should require the company to provide current subscriber counts to help assess the impact of the abandonment of service.

Commission Staff response: Such information will not be required. According to Section 67.2685 video service authorization shall expire upon notice to the public service commission. Since the Commission does not perform any assessment there is not a need for this information.

AT&T's annual report:

16. Should have a standardized format that meets parties' needs and contains meaningful and measurable information. MO-NATO (an affiliate advisor on telecom issues to the Missouri Municipal League) would be happy to work with the PSC on such a standardized format.

Commission Staff response: The Commission Staff is willing to help facilitate discussions with AT&T and any interested parties as to what information should be contained in AT&T's annual report.

Additional Feedback/Questions:

17. Can a video service application be submitted before the Senate Bill 284 goes into effect with the understanding the 30-day window for Commission action begins on August 28, 2007?

Commission Staff response: No. Applications will not be accepted until the law goes into effect.

18. FCC rule 47 CFR 76.952 (a) describes how all cable operators must provide the name, mailing address and phone number of the franchising authority, unless the franchising authority requests in writing the cable operator to omit such information. Should video service providers provide Missouri PSC contact information on monthly bills?

Commission Staff response: No. Our interpretation of the FCC's rule is the term "franchise authority" is equivalent to the term "franchise entity" as defined in Section 67.2675.(5).

19. FCC rule 47 CFR 76.1603 describes how cable operators must provide written notice to customers and the local franchising authority before implementing any rate or service changes (i.e. channel line-up changes). In addition this FCC rule describes how a cable franchise authority may enforce this requirement. Does the Missouri PSC plan to enforce this FCC rule?

Commission Staff response: No. If a political subdivision believes a video service provider has failed to provide proper notice to customers regarding a change in rates or service then such matters should be addressed in the informal process for handling inquiries as described in Section 67.2692.4 RSMo or possibly before the administrative hearing commission as described in Section 67.2692.6 RSMo. Although the FCC's rule appears to require notification to the franchising authority we are unsure what we will do with such notice since Senate Bill 284 specifically excludes the Missouri PSC from having any authority over video service rates or customer service. Our interpretation of the FCC's rule is the term "franchise authority" is equivalent to the term "franchise entity" as defined in Section 67.2675.(5).

20. If a video service application is deficient, does the Missouri PSC plan to reject the application or will the applicant be able to amend the deficient application?

Commission Staff response: The decision to reject or permit modification of applications will be made by the Regulatory Law Judge on a case-by-case basis. Either way, the 30-day period for Commission decision will not start until the deficiency is cured.

21. If a political subdivision claims it did not receive notice from a video service applicant that it has filed an application for a video service authorization for the political subdivision's area, as required by Section 67.2679.5 RSMo, will the video service application be considered deficient and consequently cause a delay in granting video service authorization?

Commission Staff response: If a political subdivision formally claims to the Missouri PSC that it has not received notice then such matters may be addressed and handled on a case-by-case basis at the discretion of the judge assigned to the application. Applicants should be prepared to respond to such a claim; however such a response may depend on when the claim was formally submitted to the Commission. For example if a claim is made late in the 30-day time window for Commission action or if a claim is simply made informally to the Commission then it is anticipated the claim by the political subdivision will be ignored.

22. If a party files a Motion to Intervene in a case established from a video service application will such a motion cause a delay in granting video service authorization?

Commission Staff response: No. In our opinion a Motion to Intervene in the video service application process seems impractical given the limited application requirements and the limited amount of time for Missouri PSC action. Unless a party is raising a question in a timely manner about a serious deficiency in an applicant's video service application it is doubtful outside parties will have any impact on the granting of a video service authorization.

23. Does the Missouri PSC envision drafting additional forms to use in order to address company transactions whereby companies with video service authorization are bought or sold?

Commission Staff response: No. Section 67.2701 RSMo describes how video service authorization is fully transferable and a notice of transfer shall be promptly filed with the Missouri PSC and the affected political subdivisions upon completion of such transfer. Section 67.2701 also specifically states that neither the Missouri PSC or any political subdivision shall have any authority to review or require approval of any transfer of a video service authorization. This lack of review or approval minimizes the need for an additional standardized form. From Staff's perspective such "notice" can be accomplished through the Notice of Change form, or in the case of a transfer to an entity that does not have state-issued franchise authority, through the application form.

24. Do you have comments regarding correspondence from a video service provider to a political subdivision or to the video service provider's customers?

Commission Staff response: Yes. Such correspondence should not imply or suggest the Missouri PSC regulates video service.

25. Will a video service application be considered deficient if it fails to list a political subdivision's franchise fee?

Commission Staff response: Yes. An application may be considered deficient if it fails to contain any information about the political subdivision's franchise fee. Although we have no plans to verify the accuracy of an application's franchise fee data, an applicant should ensure the information is accurate and clarify whether the entry is a dollar amount or a percentage. If a political subdivision does not apply a franchise fee or if a political subdivision has failed to respond to an applicant's inquiry about applicable franchise fees then the video service application should simply list "0" in the franchise fee field for that particular political subdivision.